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*Attorneys for Plaintiff*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

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JIMMIE G. BILES, JR., M.D.,

Plaintiff,

v.

JOHN HENRY SCHNEIDER, JR. and  
MEDPORT, LLC,

Defendants.

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Civ. No. 19-CV-48-F

**PLAINTIFF'S MOTION FOR EXTENSION OF PLAINTIFF'S  
EXPERT DESIGNATION DEADLINE**

Plaintiff, by and through his counsel, R. Daniel Fleck, M. Kristeen Hand, and Sarah A. Kellogg of THE SPENCE LAW FIRM, LLC, hereby files his Motion for Extension of Plaintiff's Expert Designation Deadline, and states as follows:

On November 15, 2019, this Court issued its Order on Initial Pretrial Conference. ECF # 66. The Court's order set the deadline for Plaintiff's designation of expert testimony as April 15, 2020. On March 24, 2020, the Court granted Plaintiff's Motion For Extension of Expert

Designation Deadline, extending Plaintiff's designation deadline through May 29, 2020. ECF # 73. Plaintiff's Motion to Compel (ECF # 81) and Plaintiff's Motion for Partial Summary Judgment (ECF # 74) are currently pending before the Court. As explained below, Plaintiff's anticipated expert designation depends on the outcome of these motions. Accordingly, Plaintiff respectfully requests that the Court: (1) extend Plaintiff's expert designation deadline by an additional forty-five (45) days, to July 13, 2020; (2) extend Defendants' expert designation deadline to August 13, 2020; and (3) extend the discovery cutoff deadline (for expert discovery only) through October 13, 2020.

#### I. RULE 7.1 COMPLIANCE

Pursuant to Local Rule 7.1, Counsel for Plaintiff conferred orally with counsel for MedPort, LLC ("MedPort"). Specifically, Sarah Kellogg, counsel for the Mr. Biles, spoke to Gregory Costanza, counsel for MedPort, on May 19, 2020, at which time MedPort's counsel indicated that MedPort does not oppose a forty-five day extension to Plaintiff's expert disclosure. Pursuant to the Local Rule, counsel was not required to confer with Mr. Schneider, who is representing himself pro se. *See* U.D.C.L.R. 7.1 (b)(1)(A) ("This provision shall not apply in cases involving pro se parties.").

#### II. ANALYSIS

First, there is good cause to extend Plaintiff's designation deadline pending the outcome of Plaintiff's Motion to Compel. On January 24, 2020, Plaintiff served discovery on Defendants MedPort and John H. Schneider. MedPort responded to several of the requests by stating that due to Mr. Schneider's incarceration, MedPort was unable to access responsive documents. ECF # 81-3. On March 23, 2020, Judge Carman held an informal discovery conference and offered his guidance that Mr. Schneider had an obligation to make relevant records available for production. ECF # 70, Minute Sheet. Thereafter, on April 23, 2020, Plaintiff filed a motion to

compel, requesting, in part, that the Court order Mr. Schneider to provide MedPort with access to responsive documents, so that MedPort may comply with its discovery obligations. ECF # 81. The Motion is still pending, and its outcome will impact Plaintiff's ability to designate experts.

The motion to compel relates primarily to financial documents bearing on the relationship between MedPort and Mr. Schneider. As explained in the Motion, Plaintiff believes that these documents may support his argument that MedPort is bound by the settlement agreement. Depending on how the Court rules on the motion to compel (and what documents are ultimately produced by MedPort) Plaintiff may designate a forensic accountant to help explain the relationship between MedPort and Mr. Schneider to a jury.

Similarly, on March 26, 2020, Plaintiff filed a Motion to for Partial Summary Judgment.<sup>1</sup> One of the issues presented in Defendants' response to the Motion, is the enforceability of the parties' liquidated damages clause. Plaintiff believes that the clause is enforceable. However, if the Court strikes the liquidated damages clause, Plaintiff will be required to prove his damages to a jury. Plaintiff may, therefore, designate an accounting or business expert to explain to the jury the importance of a doctor's reputation to his profitability.

The bottom line is that the outcome of the pending motions will impact Plaintiff's assessment of which experts will be needed to best present his case. Further, any forensic accountant will require the financial documents sought in Plaintiff's motion to compel.

### III. CONCLUSION

For all of these reasons, Plaintiff respectfully requests that the Court grant this Motion and extend Plaintiff's upcoming expert disclosure deadline by 45 days.

Dated this 22nd day of May, 2020.

/s/ Sarah A. Kellogg

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<sup>1</sup> The Court granted Defendants' request for an extension of their response deadline through May 18, 2020. ECF # 80.

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing Motion to Extend Plaintiff's Expert Designation Deadline with the Clerk of the Court using the CM/ECF system which will send notifications of such filing to the following addresses:

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*Attorneys for MedPort, LLC & Limited Scope Attorneys for John H. Schneider*

And also, I certify this was sent via U.S. Mail to:

John H. Schneider, Jr.  
BOP # 64084298  
551 S. 35th St.  
San Diego, CA 92113

*Pro Se*

Dated this 22nd day of May, 2020.

/s/ Sarah A. Kellogg  
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